

Appl. No. 10/611,939
Amdt. Dated August 29, 2005
Reply to Office Action of July 27, 2005

REMARKS/ARGUMENTS

Applicant gratefully acknowledges the thorough Examination to date and has made an effort to fully respond to all of the issues raised by the Examiner. Applicant has taken care and believes that no new matter has been introduced by way of this amendment. Reconsideration of the application in view of the above amendments and following remarks is respectfully requested.

Under 35 U.S.C. 121, the Examiner has requested that Applicant restrict the Claims of the subject application as follows:

- I. "Claims 1-8, 12-13, drawn to a ranging sensor, classified in class 356, subclass 73.1."
- II. "Claims 10-11, drawn to a method for detecting a disturbance at a determinable portion along a length of optical fiber, classified in class 356, subclass 33."
- III. "Claims 14-19, drawn to a hybrid audio/location sensor cable, classified in class 356, subclass 73.1."

Moreover, the Examiner states that:

"Inventions I and II, III are related as combination and subcombination. Inventions in this relationship are distinct if it can be shown that (1) the combination as claimed does not require the particulars of the subcombination as claimed for patentability, and (2) that the subcombination has utility by itself or in other combinations (MPEP § 806.05(c)). In the instant case, the combination as claimed does not require the particulars of the subcombination as claimed because the subcombination has utility by itself or in other combinations. The subcombination has separate utility such as the

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method in group II could be used by different type of sensor. The sensor in group I could be used different method. Group III is redirected to a cable. It is not required to use with the sensor or the method as in group I and II."

Firstly, Applicant respectfully submits that the Examiner has overlooked Claim 9 in the Election requirement. Applicant assumes therefore that Claim 9 is part of Group I as Claim 9 depends from Claim 1 and is directed towards the ranging sensor apparatus.

Second, Applicant respectfully submits that Claims 1 through 19 are directed to the same invention. Accordingly, Applicant has amended independent Claims 10, 14 and 17 to ensure that there is commonality between independent Claim 1 and independent Claim 10, and as well Claims 14 and 17, which have been made expressly dependent on Claim 1.

As now amended, the method of Claim 10 provides for the detection of "a disturbance at a determinable portion along a length of optical fiber using backscattered optical signals that provide polarization change and timing information..." [emphasis added]. The method is achieved by initially "launching a pulsed polarized optical signal..." and then subsequently "capturing a predetermined number of reflected polarized signal traces from said optical fiber".

Applicant respectfully submits that Claim 10, "a method of detecting a disturbance at a determinable portion along a length of optical fiber", is directed to the same invention as the "ranging sensor apparatus for detecting a disturbance at a determinable portion along a length of optical fiber" disclosed in Claim 1. Applicant further submits that neither the apparatus of Claim 1 nor the method of presently amended Claim 10 are independent inventive concepts, but rather the method of Claim 10 is performed through operation of the apparatus and similarly the apparatus is used in performance of the method.

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Applicant further submits that U.S. patent class 356 covers inventions related to "OPTICS: MEASURING AND TESTING". Subclasses 33 and 73.1 of class 356 respectfully cover inventions related to "MATERIAL STRAIN ANALYSIS WITH POLARIZED LIGHT" and to "PLURAL TEST FOR OPTICAL FIBER OR WAVEGUIDE INSPECTION". The Examiner has categorized Claims 1 through [9] and 12 through 13 into subclass 73.1, and Claims 10 and 11 are categorized into subclass 33. Applicant respectfully disagrees with this categorization of the Claims, as Claims 10 and 11 are methodology more closely related to subclass 73.1, a "plural test for waveguide inspection", rather than to subclass 33, "material strain analysis".

Applicant disagrees with the Examiner and suggests that Claim 10 as amended clearly falls within the same subclass as Claims 1 through 9, 12 through 19. Nevertheless, Applicant is of the view that provided the classification captures the subject matter of Claims 1 through 19 in the same class and subclass, the classification is acceptable. However, Applicant respectfully suggests that the classification of the present invention may be more appropriate in subclass 385/12, for example directed to "OPTICAL WAVEGUIDES: OPTICAL WAVEGUIDE SENSOR". Thus, Applicant submits that Claims 1 through 19 as amended should be classified in the same class and subclass, and are directed toward the same inventive concept.

Finally, Applicant submits that no new matter has been added by way of amendment to the Claims. Independent Claims 14 and 17 have been amended to depend from Claim 1, and thus contain the same inventive subject matter of Claim 1. Minor amendments have also been made to Claims 18 and 19 to more clearly define the present invention, and Claims 15 and 16 have been cancelled. Therefore, Applicant submits that the subject application contains Claims directed to a single invention, and that no further Restriction is required.

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Conclusion

Applicant respectfully submits that the Restriction requirement under 35 USC 121 has been overcome by the above amendment. Applicant respectfully submits that all of the claims presently standing in the application are patentably distinguished from the teachings of all references of record either taken alone or in any combination. Accordingly, reconsideration and allowance of this application is respectfully solicited.

Should any further fees or payments be necessary for entry of this amendment and further prosecution of this application, the undersigned hereby authorizes the Commissioner to debit and/or credit our Deposit Account No. 16-0600.

Respectfully Submitted,

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